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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/437,414	11/10/1999	ALEKSANDER SZLAM	031041.0091	7944

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EXAMINER

HOOSAIN, ALLAN

ART UNIT	PAPER NUMBER
2645	

DATE MAILED: 02/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/437,414	SZLAM ET AL.
	Examiner	Art Unit
	Allan Hoosain	2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on Amendment B, 10/1/02.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 93-101 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 93-101 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8 . | 6) <input type="checkbox"/> Other: _____ . |

FINAL DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 93-101 are rejected under 35 U.S.C. 102(e) as being anticipated by **Oliphant et al.** (US 4,881,261).

As to Claim 93, with respect to Figure 1 and Appendix A, **Oliphant** teaches a method for managing communications, comprising:

processing inbound communications (Col. 7, lines 13-18 and Appendix A, Labels NQ and NA);

processing outbound communications (Col. 7, lines 13-18, Col. 13, lines 7-10 and Appendix A, label NS);
obtaining a statistic, P(NS), on said outbound communications (Appendix A, Equations 13 and 14); and
adjusting said processing of said inbound communications based on said statistic (Appendix A, Equations 11 and 12).

As to Claim 94, **Oliphant** teaches the method of claim 93, wherein said step of processing inbound communications comprises connecting said inbound communications to agents (Col. 7, lines 13-18); and

said step of adjusting said processing comprises reducing the number of said inbound communications which are connected to said agents if said statistic exceeds a predetermined value (Appendix A, Equation 12);

As to Claim 95, **Oliphant** teaches the method of claim 93, wherein said step of processing inbound communications comprises connecting said inbound communications to agents (Col. 7, lines 13-18);

said step of obtaining a statistic on said outbound communications comprises obtaining information on the duration of said outbound communications (Col. 14, Appendix A, labels S and R), and

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said step of adjusting said processing comprises reducing the number of said inbound communications which are connected to said agents if said duration exceeds a predetermined value (Appendix A, Equation 11).

As to Claims 96-97, with respect to Figure 1 and Appendix A, **Oliphant** teaches a method for managing communications, comprising:

processing inbound communications (Col. 7, lines 13-18 and Appendix A, labels NA and NQ);

processing outbound communicatons (Col. 7, lines 13-18 and Appendix A, label NS);

obtaining a statistic, DMAX, on said inbound communications (Col. 14, Appendix A);

and

adjusting said processing of said outbound communications based upon said statistic (Col. 15, Claim 1, lines 47-53).

As to Claim 98, **Oliphant** teaches the method of claim 96 wherein said step of processing outbound communications comprises initiating said outbound communications,

said step of obtaining a statistic, DMAX, on said inbound communications comprises obtaining information on the delay and call length (duration) of said inbound communications (Col. 14, Appendix), and

said step of adjusting said processing comprises reducing the pacing rate (number of said outbound communications) which are initiated if said duration exceeds a desired delay (predetermined value) (Col. 12, lines 62-64).

As to Claim 99, with respect to Figure 1 and Appendix A, **Oliphant** teaches a method for managing communications, comprising:

providing for the processing of inbound communications (Col. 7, lines 13-18 and Appendix A, Labels NA and NQ);

providing for the processing of outbound communications (Col. 7, lines 13-18 and Appendix A, label NS);

obtaining a statistic, DMAX, on said inbound communications (Appendix A, [DMAX]); and

providing for adjusting said processing of said outbound communications based upon said statistic (Col. 15, Claim 1, lines 47-53).

As to Claim 100, **Oliphant** teaches the method of claim 99 wherein said step of providing for the processing of outbound communications comprises

initiating said outbound communications (Col. 15, Claim 1, lines 52-53), and said step of providing for adjusting said processing comprises reducing the number of said outbound communications which are initiated if said statistic exceeds a predetermined value (Col. 15, Claim 1, lines 47-53).

As to Claim 101, **Oliphant** teaches the method of claim 99 wherein said step of providing for the processing of outbound communications comprises

initiating said outbound communications (Col. 15, lines 53-54),

said step of obtaining a statistic comprises obtaining information on the duration of said inbound communications (Col. 14, lines 66-67), and

said step of providing for adjusting said processing comprises reducing the number of said outbound communications which are initiated if said duration exceeds a predetermined value (Col. 15, lines 47-51 and Col. 16, lines 10-13).

Response to Arguments

3. Applicant's arguments filed in the 10/1/02 Remarks have been fully considered but they are not persuasive because of the following:

(a) **Oliphant** does not teach processing of inbound communications based on statistics particularly derived for outbound communications because **Oliphant** discloses processing of communications based on statistics for all the communications as a whole.

Examiner respectfully disagrees. This is because **Oliphant** teaches that the total calls managed are divided into calls being set-up (outbound calls), calls in a queue waiting agents (incoming calls) and calls connected to an agent (both inbound and outbound) so as to keep the total number of calls constant and achieving a desired delay in the incoming call queue (Col. 7, lines 35-44 and 55-64). By adjusting the pacing rate (number of outgoing calls) the number of calls in the queue (incoming calls) is adjusted so that the desired delay is achieved.

The cited passages in the Remarks suggesting that **Oliphant's** statistics are used only to control outbound communications is not accurate. For example, the Abstract teaches that predictive pacing (pacing rate of outgoing calls) controls answered calls waiting for agents (incoming calls in the queue). The other cited passages when taken in context are all based on

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the pacing rate being adjusted to maintain the total number of calls constant and achieving the desired delay.

The arguments that the cited equations in Appendix A do not control the processing of inbound communications are not convincing. This is because these equations are used to determine the pacing rate to maintain the total number of calls constant and achieving the desired delay.

(b) With respect to Claims 94 and 95, **Oliphant** neither suggests nor discloses that statistics on inbound and outbound communications should be determined separately and used separately. Examiner respectfully disagrees because, as pointed out above, **Oliphant** teaches calls in set-up (outbound calls statistics) and calls in queue (inbound calls statistics). The pacing rate is adjusted based on these statistics to maintain the number of calls constant and achieving the desired delay. Thus if the delay in the queue is getting too large, the pacing rate is reduced so that more agents are allowed to answer calls in the queue. If the delay in the queue is not too large, then the pacing rate is increased to allow more agents to place outgoing calls. This reasoning is supported at Col. 12, lines 51-64. The pacing rate for set-up calls (outgoing calls) is increased when the total number of calls in the queue (incoming calls) is less than K. The pacing rate is reduced to zero when the total number of calls in the system is equal to K. K is chosen so that the desired delay is achieved.

(c) With respect to Claim 95, **Oliphant** does not teach determining the duration of outbound communications.

Examiner respectfully disagrees. This is because **Oliphant** teaches that average server hold time (call duration) is used in the calculation of R. R and S determines the number of

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outbound calls, NS, and hence K. Therefore, as argued above, the call duration of outbound communications is a determining factor in controlling inbound communications.

(d) With respect to Claims 96-97, **Oliphant** does not teach obtaining a statistic on inbound communication and using it to control outbound communications.

Examiner respectfully disagrees for the same reasons given in (b). As noted in the claim rejection, the delay DMAX is monitored and controls the pacing rate (outbound communications). The arguments that NA and NQ are not indicators of the number of inbound calls is not accurate. The claims only recite processing inbound communications. As taught at Col. 12, lines 52-61, NA is an indicator of when all agents are busy and, therefore, some agents are processing inbound communications. NQ is an indicator of the number of calls in the queue and, therefore, an indicator of processing incoming communications.

(e) With respect to Claim 98, **Oliphant** does not teach obtaining a statistic on the duration of inbound communications.

Examiner respectfully disagrees. This is because DMAX is an indication of the duration of inbound call processing and which controls the processing of outbound communications. In addition, **Oliphant** teaches determining the average call length (CL) which is a duration of inbound call processing (Col. 12, line 24).

(f) Examiner respectfully believes that all the other arguments are similar to those addressed in (a)-(e) above and disagrees for the same reasons.

(g) Examiner respectfully invites Applicants to contact Examiner to discuss possible amendments for overcoming the prior art of record.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Zwick et al. (US 4,852,149) teach a call filter which processes incoming and outgoing calls.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communications; please mark "EXPEDITED PROCEDURE")

Or:

(703) 306-0377 (for customer service assistance)

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Hand-delivered responses should be brought to Crystal Park II, 2121
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Allan Hoosain** whose telephone number is (703) 305-4012. The examiner can normally be reached on Monday to Friday from 8 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Fan Tsang**, can be reached on (703) 305-4895.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Allan Hoosain
Allan Hoosain
Primary Examiner
1/23/04